# SUPREME COURT OF THE UNITED STATES

No. 65.—October Term, 1965.

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| United States, Appellant, v. Herbert Guest et al. | On Appeal From the United States District Court for the Middle District of Georgia. |

[March 28, 1966.]

Mr. Justice Stewart delivered the opinion of the Court.

The six defendants in this case were indicted by a United States grand jury in the Middle District of Georgia for criminal conspiracy in violation of 18 U. S. C. § 241. That section provides in relevant part:

> "If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;
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> . . . . . .
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> "They shall be fined not more than $5000 or imprisoned not more than ten years, or both."

In five numbered paragraphs, the indictment alleged a single conspiracy by the defendants to deprive Negro citizens of the free exercise and enjoyment of several specified rights secured by the Constitution and laws of the United States.[1] The defendants moved to dismiss

[1] The indictment, filed on October 16, 1964, was as follows:

"THE GRAND JURY CHARGES:

"Commencing on or about January 1, 1964, and continuing to the date of this indictment, HERBERT GUEST, JAMES SPERGEON LACKEY, CECIL WILLIAM MYERS, DENVER WILLIS PHILLIPS, JOSEPH HOWARD SIMS, and GEORGE HAMPTON TURNER, did, within the Middle District of Georgia, Athens Division, conspire together, with each other, and with other persons

the indictment on the ground that it did not charge an offense under the laws of the United States. The District Court sustained the motion and dismissed the

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to the Grand Jury unknown, to injure, oppress, threaten, and intimidate Negro citizens of the United States in the vicinity of Athens, Georgia, in the free exercise and enjoyment by said Negro citizens of the following rights and privileges secured to them by the Constitution and the laws of the United States:

"1. The right to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of motion picture theaters, restaurants, and other places of public accommodation;

"2. The right to the equal utilization, without discrimination upon the basis of race, of public facilities in the vicinity of Athens, Georgia, owned, operated or managed by or on behalf of the State of Georgia or any subdivision thereof;

"3. The right to the full and equal use on the same terms as white citizens of the public streets and highways in the vicinity of Athens, Georgia;

"4. The right to travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia;

"5. Other rights exercised and enjoyed by white citizens in the vicinity of Athens, Georgia.

"It was a part of the plan and purpose of the conspiracy that its objects be achieved by various means, including the following:

"1. By shooting Negroes;

"2. By beating Negroes;

"3. By killing Negroes;

"4. By damaging and destroying property of Negroes;

"5. By pursuing Negroes in automobiles and threatening them with guns;

"6. By making telephone calls to Negroes to threaten their lives, property, and persons, and by making such threats in person;

"7. By going in disguise on the highway and on the premises of other persons;

"8. By causing the arrest of Negroes by means of false reports that such Negroes had committed criminal acts; and

"9. By burning crosses at night in public view.

"All in violation of Section 241, Title 18, United States Code."

The only additional indication in the record concerning the factual details of the conduct with which the defendants were charged is

indictment as to all defendants and all numbered paragraphs of the indictment. 246 F. Supp. 475.

The United States appealed directly to this Court under the Criminal Appeals Act, 18 U. S. C. § 3731.[2] We postponed decision of the question of our jurisdiction to the hearing on the merits. 381 U. S. 932. It is now apparent that this Court does not have jurisdiction to decide one of the issues sought to be raised on this direct appeal. As to the other issues, however, our appellate jurisdiction is clear, and for the reasons that follow, we reverse the judgment of the District Court. As in *United States* v. *Price*, — U. S. —, decided today, we deal here with issues of statutory construction, not with issues of constitutional power.

## I.

The first numbered paragraph of the indictment, reflecting a portion of the language of § 201 (a) of the Civil Rights Act of 1964, 42 U. S. C. § 2000a (a) (1964 ed.), alleged that the petitioners conspired to injure, oppress, threaten, and intimidate Negro citizens in the free exercise and enjoyment of:

> "The right to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of motion picture theaters, restaurants, and other places of public accommodation."[3]

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the statement of the District Court that: "It is common knowledge that two of the defendants, Sims and Myers, have already been prosecuted in the Superior Court of Madison County, Georgia for the murder of Lemuel A. Penn and by a jury found not guilty." 246 F. Supp. 475, 487.

[2] This appeal concerns only the first four numbered paragraphs of the indictment. The Government conceded in the District Court that the fifth paragraph added nothing to the indictment, and no question is raised here as to the dismissal of that paragraph.

[3] Section 201 (a) of the Civil Rights Act of 1964, 42 U. S. C. § 2000a (a) (1964 ed.), provides:

"All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommo-

The District Court held that this paragraph of the indictment failed to state an offense against rights secured by the Constitution or laws of the United States. The court found a fatal flaw in the failure of the paragraph to include an allegation that the acts of the defendants were motivated by racial discrimination, an allegation the court thought essential to charge an interference with rights secured by Title II of the Civil Rights Act of 1964.[4] The court went on to say that, in any event, 18 U. S. C. § 241 is not an available sanction to protect rights secured by that title because § 207 (b)

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dations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."

The criteria for coverage of motion picture theaters by the Act are stated in §§ 201 (b)(3) and 201 (c)(3), 42 U. S. C. §§ 2000a (b)(3) and 2000a (c)(3) (1964 ed.); the criteria for coverage of restaurants are stated in §§ 201 (b)(2) and 201 (c)(2), 42 U. S. C. §§ 2000a (b)(2) and 2000a (c)(2) (1964 ed.). No issue is raised here as to the failure of the indictment to allege specifically that the Act is applicable to the places of public accommodation described in this paragraph of the indictment.

[4] The District Court said: "The Government contends that the rights enumerated in paragraph 1 stem from Title 2 of the Civil Rights Act of 1964, and thus automatically come within the purview of § 241. The Government conceded on oral argument that paragraph one would add nothing to the indictment absent the Act. It is not clear how the rights mentioned in paragraph one can be said to come from the Act because § 201 (a), upon which the draftsman doubtless relied, lists the essential element 'without discrimination or segregation on the ground of race, color, religion, or national origin.' This element is omitted from paragraph one of the indictment, and does not appear in the charging part of the indictment. The Supreme Court said in Cruikshank, supra, 92 U. S. at page 556, where deprivation of right to vote was involved,

"'We may suspect that "race" was the cause of the hostility; but it is not so averred. This is material to a description of the substance of the offense and cannot be supplied by implication. Everything essential must be charged positively, not inferentially. The defect here is not in form, but in substance.'" 246 F. Supp. 475, 484.

of the 1964 Act, 42 U. S. C. § 2000a–6 (b) (1964 ed.), specifies that the remedies provided in Title II itself are to be the exclusive means of enforcing the rights the title secures.[5]

A direct appeal to this Court is available to the United States under the Criminal Appeals Act, 18 U. S. C. § 3731, from "a decision or judgment . . . dismissing any indictment . . . or any count thereof, where such decision or judgment is based upon the . . . construction of the statute upon which the indictment . . . is founded." In the present case, however, the District Court's judgment as to the first paragraph of the indictment was based, at least alternatively, upon its determination that this paragraph was defective as a matter of pleading. Settled principles of review under the Criminal Appeals Act therefore preclude our review of the District Court's judgment on this branch of the indictment. In *United States* v. *Borden Co.*, 308 U. S. 188, Chief Justice Hughes, speaking for a unanimous Court, set out these principles with characteristic clarity:

> "The established principles governing our review are these: (1) Appeal does not lie from a judgment which rests on the mere deficiencies of the indict-

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[5] Section 207 (b) of the Civil Rights Act of 1964, 42 U. S. C. § 2000a–6 (b) (1964 ed.), states:

"The remedies provided in this title shall be the exclusive means of enforcing the rights based on this title, but nothing in this title shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right."

Relying on this provision and its legislative history, the District Court said: "It seems crystal clear that the Congress in enacting the Civil Rights Act of 1964 did not intend to subject anyone to any possible criminal penalties except those specifically provided for in the Act itself." 246 F. Supp., at 485.

ment as a pleading, as distinguished from a construction of the statute which underlies the indictment. (2) Nor will an appeal lie in a case where the District Court has considered the construction of the statute but has also rested its decision upon the independent ground of a defect in pleading which is not subject to our examination. In that case we cannot disturb the judgment and the question of construction becomes abstract. (3) This Court must accept the construction given to the indictment by the District Court as that is a matter we are not authorized to review. . . ." 308 U. S., at 193.

See also *United States* v. *Swift & Co.*, 318 U. S. 442, 444.

The result is not changed by the circumstance that we have jurisdiction over this appeal as to the other paragraphs of the indictment. *United States* v. *Borden*, *supra*, involved an indictment comparable to the present one for the purposes of jurisdiction under the Criminal Appeals Act. In *Borden*, the District Court had held all four counts of the indictment invalid as a matter of construction of the Sherman Act, but had also held the third count defective as a matter of pleading. The Court accepted jurisdiction on direct appeal as to the first, second, and fourth counts of the indictment, but it dismissed the appeal as to the third count for want of jurisdiction. "The Government's appeal does not open the whole case." 308 U. S. 188, 193.

It is hardly necessary to add that our ruling as to the Court's lack of jurisdiction now to review this aspect of the case implies no opinion whatsoever as to the correctness either of the District Court's appraisal of this paragraph of the indictment as a matter of pleading or of the court's view of the preclusive effect of § 207 (b) of the Civil Rights Act of 1964.

## II.

The second numbered paragraph of the indictment alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

> "The right to the equal utilization, without discrimination upon the basis of race, of public facilities in the vicinity of Athens, Georgia, owned, operated, or managed by or on behalf of the State of Georgia or any subdivision thereof."

Correctly characterizing this paragraph as embracing rights protected by the Equal Protection Clause of the Fourteenth Amendment, the District Court held as a matter of statutory construction that 18 U. S. C. § 241 does not encompass any Fourteenth Amendment rights, and further held as a matter of constitutional law that "any broader construction of § 241 . . . would render it void for indefiniteness." 246 F. Supp., at 486. In so holding, the District Court was in error, as our opinion in *United States* v. *Price*, — U. S. —, decided today, makes abundantly clear.

To be sure, *Price* involves rights under the Due Process Clause, whereas the present case involves rights under the Equal Protection Clause. But no possible reason suggests itself for concluding that § 241—if it protects Fourteenth Amendment rights—protects rights secured by the one Clause but not those secured by the other. We have made clear in *Price* that when § 241 speaks of "any right or privilege secured . . . by the Constitution or laws of the United States," it means precisely that.

Moreover, inclusion of Fourteenth Amendment rights within the compass of 18 U. S. C. § 241 does not render the statute unconstitutionally vague. Since the gravamen of the offense is conspiracy, the requirement that the offender must act with a specific intent to inter-

fere with the federal rights in question is satisfied. *Screws* v. *United States*, 325 U. S. 91; *Williams* v. *United States*, 341 U. S. 70, 93–95 (dissenting opinion). And the rights under the Equal Protection Clause described by this paragraph of the indictment have been so firmly and precisely established by a consistent line of decisions in this Court,[6] that the lack of specification of these rights in the language of § 241 itself can raise no serious constitutional question on the ground of vagueness or indefiniteness.

Unlike the indictment in *Price*, however, the indictment in the present case names no person alleged to have acted in any way under the color of state law. The argument is therefore made that, since there exist no Equal Protection Clause rights against wholly private action, the judgment of the District Court on this branch of the case must be affirmed. On its face, the argument is unexceptionable. The Equal Protection Clause speaks to the State or to those acting under the color of its authority.[7]

In this connection, we emphasize that § 241 by its clear language incorporates no more than the Equal Protection Clause itself; the statute does not purport to give substantive, as opposed to remedial, implementation to any rights secured by that Clause.[8] Since we therefore

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[6] See, *e. g.*, *Brown* v. *Board of Education*, 347 U. S. 483 (schools); *New Orleans City Park Improvement Assn.* v. *Detiege*, 358 U. S. 54, *Wright* v. *Georgia*, 373 U. S. 284, *Watson* v. *Memphis*, 373 U. S. 526, *City of New Orleans* v. *Barthe*, 376 U. S. 189 (parks and playgrounds); *Holmes* v. *City of Atlanta*, 350 U. S. 879 (golf course); *Mayor and City Council of Baltimore City* v. *Dawson*, 350 U. S. 877 (beach); *Muir* v. *Louisville Park Theatrical Assn.*, 347 U. S. 971 (auditorium); *Johnson* v. *Virginia*, 373 U. S. 61 (courthouse); *Burton* v. *Wilmington Parking Authority*, 365 U. S. 715 (parking garage); *Turner* v. *City of Memphis*, 369 U. S. 350 (airport).

[7] "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

[8] See p. 1, *supra*.

deal here only with the bare terms of the Equal Protection Clause itself, nothing said in this opinion goes to the question of what kinds of other and broader legislation Congress might constitutionally enact under § 5 of the Fourteenth Amendment to implement that Clause or any other provision of the Amendment.[9]

It is a commonplace that rights under the Equal Protection Clause itself arise only where there has been involvement of the State or of one acting under the color of its authority. The Equal Protection Clause "does not . . . add any thing to the rights which one citizen has under the Constitution against another." *United States* v. *Cruikshank*, 92 U. S. 542, 554–555. As MR. JUSTICE DOUGLAS more recently put it, "The Fourteenth Amendment protects the individual against *state action*, not against wrongs done by *individuals*." *United States* v. *Williams*, 341 U. S. 70, 92 (dissenting opinion). This has been the view of the Court from the beginning. *United States* v. *Cruikshank*, *supra*; *United States* v. *Harris*, 106 U. S. 629; *Civil Rights Cases*, 109 U. S. 3; *Hodges* v. *United States*, 203 U. S. 1; *United States* v. *Powell*, 212 U. S. 564. It remains the Court's view today. See, *e. g.*, *Evans* v. *Newton*, — U. S. —; *United States* v. *Price*, — U. S. —.

This is not to say, however, that the involvement of the State need be either exclusive or direct. In a variety of situations the Court has found state action of a nature sufficient to create rights under the Equal Protection Clause even though the participation of the State was peripheral, or its action was only one of several co-operative forces leading to the constitutional violation. See, *e. g.*, *Shelley* v. *Kraemer*, 334 U. S. 1; *Pennsylvania* v. *Board*

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[9] Thus, contrary to the suggestion in MR. JUSTICE BRENNAN'S separate opinion, nothing said in this opinion has the slightest bearing on the validity or construction of Title III or Title IV of the Civil Rights Act of 1964, 42 U. S. C. §§ 2000b, 2000c (1964 ed.).

*of Trusts*, 353 U. S. 230; *Burton* v. *Wilmington Parking Authority*, 365 U. S. 715; *Peterson* v. *City of Greenville*, 373 U. S. 244; *Lombard* v. *Louisiana*, 373 U. S. 267; *Griffin* v. *Maryland*, 378 U. S. 130; *Robinson* v. *Florida*, 378 U. S. 153; *Evans* v. *Newton*, *supra*.

This case, however, requires no determination of the threshold level that state action must attain in order to create rights under the Equal Protection Clause. This is so because, contrary to the argument of the litigants, the indictment in fact contains an express allegation of state involvement sufficient at least to require the denial of a motion to dismiss. One of the means of accomplishing the object of the conspiracy, according to the indictment, was "By causing the arrest of Negroes by means of false reports that such Negroes had committed criminal acts." [10] In *Bell* v. *Maryland*, 378 U. S. 226, three members of the Court expressed the view that a private businessman's invocation of state police and judicial action to carry out his own policy of racial discrimination was sufficient to create Equal Protection Clause rights in those against whom the racial discrimination was directed.[11] Three other members of the Court strongly disagreed with that view,[12] and three expressed no opinion on the question. The allegation of the extent of official involvement in the present case is not clear. It may charge no more than co-operative private and state action similar to that involved in *Bell*, but it may go considerably further. For example, the allegation is broad enough to cover a charge of active connivance by agents of the State in the making of the "false reports," or other conduct amounting to official discrimination clearly sufficient to constitute denial of rights protected by the Equal Protection

[10] See note 1, *supra*.

[11] 378 U. S. 226, at 242 (separate opinion of MR. JUSTICE DOUGLAS); *id.*, at 286 (separate opinion of Mr. Justice Goldberg).

[12] *Id.*, at 318 (dissenting opinion of MR. JUSTICE BLACK).

Clause. Although it is possible that a bill of particulars, or the proofs if the case goes to trial, would disclose no co-operative action of that kind by officials of the State, the allegation is enough to prevent dismissal of this branch of the indictment.

III.

The fourth numbered paragraph of the indictment alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

> "The right to travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia." [13]

The District Court was in error in dismissing the indictment as to this paragraph. The constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized. In *Crandall* v. *Nevada*, 6 Wall. 35, invalidating a Nevada tax on every person leaving the State by common carrier, the Court took as its guide the state-

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[13] The third numbered paragraph alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

"The right to the full and equal use on the same terms as white citizens of the public streets and highways in the vicinity of Athens, Georgia."

Insofar as the third paragraph refers to the use of local public facilities, it is covered by the discussion of the second numbered paragraph of the indictment in Part II of this opinion. Insofar as the third paragraph refers to the use of streets or highways in interstate commerce, it is covered by the present discussion of the fourth numbered paragraph of the indictment.

ment of Chief Justice Taney in the *Passenger Cases*, 7 How. 283, 492:

> "For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States." See 6 Wall., at 48–49.

Although the Articles of Confederation provided that "the people of each State shall have free ingress and regress to and from any other State," [14] that right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created.[15] In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution. See *Williams* v. *Fears*, 179 U. S. 270, 274; *Twining* v. *New Jersey*, 211 U. S. 78, 97; *Edwards* v. *California*, 314 U. S. 160, 177 (concurring opinion), 181 (concurring opinion); *New York* v. *O'Neill*, 359 U. S. 1, 6–8; 12–16 (dissenting opinion).

In *Edwards* v. *California*, 314 U. S. 160, invalidating a California law which impeded the free interstate passage of the indigent, the Court based its reaffirmation of the federal right of interstate travel upon the Commerce Clause. This ground of decision was consistent with precedents firmly establishing that the federal commerce power surely encompasses the movement in interstate commerce of persons as well as commodities. *Glou-*

[14] Art. IV, Articles of Confederation.

[15] See Chafee, Three Human Rights in the Constitution 185 (1956).

*cester Ferry Co.* v. *Pennsylvania*, 114 U. S. 196, 203; *Covington & Cincinnati Bridge Co.* v. *Kentucky*, 154 U. S. 204, 218–219; *Hoke* v. *United States*, 227 U. S. 308, 320; *United States* v. *Hill*, 248 U. S. 420, 423. It is also well settled in our decisions that the federal commerce power authorizes Congress to legislate for the protection of individuals from violations of civil rights that impinge on their free movement in interstate commerce. *Mitchell* v. *United States*, 313 U. S. 80; *Henderson* v. *United States*, 339 U. S. 816; *Boynton* v. *Virginia*, 364 U. S. 454; *Atlanta Motel* v. *United States*, 379 U. S. 241; *Katzenbach* v. *McClung*, 379 U. S. 294.

Although there have been recurring differences in emphasis within the Court as to the source of the constitutional right of interstate travel, there is no need here to canvass those differences further.[16] All have agreed that the right exists. Its explicit recognition as one of the federal rights protected by what is now 18 U. S. C. § 241 goes back at least as far as 1904. *United States* v. *Moore*, 129 F. 630, 633. We reaffirm it now.[17]

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[16] The District Court relied heavily on *United States* v. *Wheeler*, 254 U. S. 281, in dismissing this branch of the indictment. That case involved an alleged conspiracy to compel residents of Arizona to move out of that State. The right of interstate travel was, therefore, not directly involved. Whatever continuing validity *Wheeler* may have as restricted to its own facts, the dicta in the *Wheeler* opinion relied on by the District Court in the present case have been discredited in subsequent decisions. Cf. *Edwards* v. *California*, 314 U. S. 160, 177, 180 (DOUGLAS, J., concurring); *Williams* v. *United States*, 341 U. S. 70, 80.

[17] As emphasized in MR. JUSTICE HARLAN'S separate opinion, § 241 protects only against rights secured by other federal laws or by the Constitution itself. The right to interstate travel is a right that the Constitution itself guarantees, as the cases cited in the text make clear. Although these cases in fact involved governmental interference with the right of free interstate travel, their reasoning fully

This does not mean, of course, that every criminal conspiracy affecting an individual's right of free interstate passage is within the sanction of 18 U. S. C. § 241. A specific intent to interfere with the federal right must be proved, and at a trial the defendants are entitled to a jury instruction phrased in those terms. *Screws* v. *United States*, 325 U. S. 91, 106–107. Thus, for example, a conspiracy to rob an interstate traveler would not, of itself, violate § 241. But if the predominant purpose of the conspiracy is to impede or prevent the exercise of the right of interstate travel, or to oppress a person because of his exercise of that right, then, whether or not motivated by racial discrimination, the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought. Accordingly, it was error to grant the motion to dismiss on this branch of the indictment.

For these reasons, the judgment of the District Court is reversed and the case is remanded to that court for further proceedings consistent with this opinion.

*It is so ordered.*

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supports the conclusion that the constitutional right of interstate travel is a right secured against interference from any source whatever, whether governmental or private. In this connection, it is important to reiterate that the right to travel freely from State to State finds constitutional protection that is quite independent of the Fourteenth Amendment.

We are not concerned here with the extent to which interstate travel may be regulated or controlled by the exercise of a State's police power acting within the confines of the Fourteenth Amendment. See *Edwards* v. *California*, 314 U. S. 160, 184 (concurring opinion); *New York* v. *O'Neill*, 359 U. S. 1, 6–8. Nor is there any issue here as to the permissible extent of federal interference with the right within the confines of the Due Process Clause of the Fifth Amendment. Cf. *Zemel* v. *Rusk*, 381 U. S. 1; *Aptheker* v. *Secretary of State*, 378 U. S. 500; *Kent* v. *Dulles*, 357 U. S. 116.

# SUPREME COURT OF THE UNITED STATES

No. 65.—October Term, 1965.

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| United States, Appellant, *v.* Herbert Guest et al. | On Appeal From the United States District Court for the Middle District of Georgia. |

[March 28, 1966.]

Mr. Justice Clark, with whom Mr. Justice Black and Mr. Justice Fortas join, concurring.

I join the opinion of the Court in this case but believe it worthwhile to comment on its Part II in which the Court discusses that portion of the indictment charging the appellees with conspiring to injure, oppress, threaten and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

> "The right to equal utilization, without discrimination upon the basis of race, of public facilities in the vicinity of Athens, Georgia, owned, operated, or managed by or on behalf of the State of Georgia or any subdivision thereof."

The appellees contend that the indictment is invalid since 18 U. S. C. § 241, under which it was returned, protects only against interference with the exercise of the right to equal utilization of State facilities, which is not a right "secured" by the Fourteenth Amendment in the absence of state action. With respect to this contention the Court upholds the indictment on the ground that it alleges the conspiracy was accomplished, in part, "by causing the arrest of Negroes by means of false reports that such Negroes had committed criminal acts." The Court reasons that this allegation of the indictment might well cover active connivance by agents of the State in the making of these false reports or in carrying